



United States Department of Agriculture
Food and Nutrition Service

Southeast Region

Reply to
Attn. of: CN-16

July 22, 2004

Subject: SERO Policy NSLP 210.21-20; SFSP 225.17-15; CACFP 226.22-14: Reaffirming FNS' Position on Rebates, Discounts, and Other Applicable Credits in Cost Reimbursable Contracts

To: All CN Directors
Southeast Region

Our National Office was recently contacted by a representative of a food service management company (FSMC) who expressed concern that some State agencies (SAs) may not be aware of FNS' position on rebates, discounts, and other applicable credits in school food authority (SFA)-FSMC cost reimbursable contracts. Our agency position remains unchanged from our answer to Question 5, in our SERO Policy 210.21-17; 250.15-15 "Applicability of Federal Requirements to School Food Service Procurements ", dated June 2, 2003. Since our position applies to **all** cost reimbursable contracts, not just SFA-FSMC cost reimbursable contracts, we are providing FNS' position to all of our Child Nutrition Program SAs.

In the June 2, 2003 memorandum Question 5 asked: "Does applying Parts 3016 and 3019 to SFA procurements change FNS' position on the crediting of discounts and rebates in cost reimbursable contracts?"

Our agency's answer was and remains: "No. FNS' position on this subject remains unchanged. FNS strongly encourages, but does not require, that all cost reimbursable contracts include provisions to ensure SFAs are only charged net, allowable costs. The Office of Management and Budget and the Department's Office of the General Counsel have made clear that SAs and SFAs can impose compliance with net cost requirements through contractual terms."

If you have any questions, please contact this office.

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